

Exhibit E -Affidavit of Kevin Thobias

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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

BETTER MORNINGS, LLC and ISLAND  
BREEZE, LLC

Plaintiffs,

vs.

JOSEPH NILSEN and DIGITAL  
CHECKMATE, INC.

Defendants.

Case No.: 2:19-cv-03854

**AFFIDAVIT IN SUPPORT OF  
MOTION FOR DEFAULT  
JUDGMENT**

STATE OF FLORIDA     )  
                                  ) ss.:  
COUNTY OF DADE     )

KEVIN THOBIAS, being duly sworn, deposes and says:

1. I am the founder and president of Plaintiffs Better Mornings, LLC and Island Breeze, LLC, (collectively, "Plaintiffs"). I am fully familiar with the facts and circumstances set forth herein.
2. I submit this affidavit in support of Plaintiffs' application for the entry of a default judgment against defendants Joseph Nilsen and Digital Checkmate, Inc (collectively, "Defendants").
3. In my role as president, I am familiar with the books and records maintained by Plaintiffs' during the regular course of business, including records related to sales of

Plaintiffs' products and damages caused by Defendants' attacks. I have specifically reviewed records related to sales of products affected by these attacks.

4. These records show that, during the relevant period, Plaintiffs sustained \$900,135.85 in lost sales, relative to expected sales. These damages were calculated by comparing sales in periods in calendar year 2019 during which the affected products were under attack against daily average sales in periods when the products were not under attack. Accurate records of the damages sustained by Better Mornings and the formula for calculating those damages are attached as Exhibit A to this affidavit. Accurate records of the damages sustained by Brute Nutrition and the formula for calculating those damages are attached as Exhibit B.

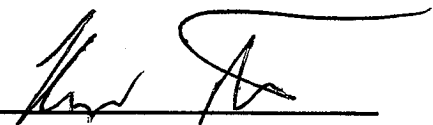
5. Accordingly, as a result of Defendants' attacks on Plaintiffs' business, Plaintiffs are entitled to recover the following amounts:

- a. Actual Damages: \$900,135.85
- b. Costs: \$7071.14
- c. Attorney's Fees: \$61,687.75

6. As of this date, August 12, 2019, no part of such amount, \$968,894.74, has been paid.

I affirm under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

DATED: August 12, 2019


/s/ 

President, Better Mornings, LLC  
and Island Breeze, LLC

Sworn to before me this 12 day of August, 2019



Notary Public for the State of Florida  
My Commission Expires: 10/06/2019

 Evelina V. Tsigelnitskaya  
NOTARY PUBLIC  
STATE OF FLORIDA  
Comm# FF239996  
Expires 10/6/2019